



STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

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MINUTES MECHANICAL, VENTILATION AND ENERGY CODES COMMITTEE

Date: April 8, 2010

Location: Seattle Area Pipe Trades Education Center, Renton

MVE Committee Members Present: Mari Hamasaki, Chair; Kristyn Clayton; Jerry Mueller; John Cochran; Tien Peng

Other Council Members Present: Angie Homola

MVE Committee Members Absent: Dale Wentworth

Visitors Present: Kraig Stevenson, Chuck Murray, Diane Glenn, Eric Lohnes, Eric Vander Mey, Javad Maadani, Charles de Montigny, Pete Held, Patrick Hayes, Tom Nichols, Kim Drury, Lisa Rosenow, Jeanette McKague

Staff Present: Tim Nogler, Krista Braaksma

CALL TO ORDER

Mari Hamasaki, Chair of the Mechanical, Ventilation and Energy Codes Committee, called the meeting to order at 9:00am. Everyone was welcomed and introductions were made.

REVIEW AND APPROVE AGENDA

The agenda was reviewed and approved as written. Tim noted the minutes from the March meeting would be sent out shortly.

ENERGY CODE STRATEGIC PLAN UPDATE AND REPORT

Chuck Murray presented his revised workplan for the requirements of E2SSB 5854. At the last meeting of the Committee, a rough draft of the workplan was reviewed. The legislature directed the Department of Commerce to develop a strategic plan for advancing energy codes, and for

providing complementary activities that support advancing low energy buildings in Washington. The legislation asked the Council and Commerce to form a collaborative working group. Chuck indicated that today's discussion should be about the public process. The Committee needs to discuss whether it is a big enough advisory group, or whether it should be expanded for more input.

The strategic plan requires Commerce to provide a detailed report to the legislature that addresses a variety of subject matter, and requires the process to be repeated every three years. There is an education component to the public process, which Chuck plans to address by having webinars on a regular basis throughout the summer, with experts presenting information. The webinars will allow participants to call in and ask clarifying questions, but broad public comment will be solicited in the workshops. At the workshops, the public will be able to offer comments and suggestions for items to include in the strategic plan. Commerce has already established a web address to serve as a public portal during this process, and a goal will also be to post the webinars on the Commerce web site. Chuck anticipates that the legislative requirements will demand a fair amount of research, and key research materials and papers will also be posted on the website. Chuck stated that the SBCC would be the best organization to provide meeting notification, as it already has the resources and mailing lists. Commerce will also reach out to additional folks who have shown interest

The strategic planning effort involves gathering technical and programmatic information as well as opinions. Chuck is encouraging people to contact him with anything they think would be formative for this process. For example, if an area expert wants to participate in the webinars, they should contact Chuck. The process will rely heavily on volunteers.

Chuck next discussed a draft schedule. In April, public outreach and notification will occur. Additionally, Chuck will develop webinar subject matter and will complete and publish a detailed schedule. In early May, there will be a webinar to introduce the public to this process and encourage participation. This webinar would precede the next MVE meeting, which is scheduled for May 13. Chuck suggested having notification of the May workplan for this project included in the next package of the SBCC.

Chuck pointed out that the draft schedule includes near-weekly webinars and monthly workshops for May through July. He has identified the key subject information for the webinars. During the workshop occurring at the end of May, he expects having a detailed discussion on the subject matter covered in the April and May webinars.

A June webinar will elicit a discussion on identifying energy loads in buildings to plan more strategically for reduction. The next webinar will be a discussion of how to handle cost data sets, and discuss different data collection methodologies. The following webinar will be on performance based codes. While there are not really any performance based codes in the US, there are performance comparison methodologies. There will also be a webinar to allow participants to look at 2012 proposals, drawing from the IECC 2012, as well as local sources. Once again, a workshop will follow at the end of June to discuss the webinar subjects.

Skipping ahead to September, the workgroup will need to develop solid recommendations and present final written documents on the findings. There will be a presentation of

recommendations, and there will be a draft strategic plan available for review and comment. During October, there will be several workshops to take public comment on the plan, after which the draft strategic plan will be revised. November is reserved to allow review by the Office of Financial Management, and for making any revisions that need to be made before delivery to the legislature. The report is due by December 31, 2010.

Kristyn Clayton commented that the process seems more like an informative effort to the Committee, rather than requiring a vote or recommendation. She asked whether this will be a consensus based process, or will there be voting at the workshops. Chuck responded that there will not be voting. The goal is consensus, but the strategic plan should reflect variations in opinions and not necessarily try to resolve issues. The report will inform the legislature where areas of contention lie.

There was discussion about whether the Council will be voting on the strategic plan prior to presenting it to the legislature. Tim Nogler voiced that the bill, E2SSB 5854, directs both Commerce and the Council to coordinate to produce the strategic plan, and his expectation is that the Council will have input into the items identified by the legislation.

Kristyn stated that if the plan is in effect a recommendation from the Council, the Council would need to vote on it in October. Tim said that the charging paragraph in the legislation directs Commerce to develop the strategic plan. The bill calls for Commerce and SBCC to form a workgroup to inform the initial development of the plan, but the final recommendation comes from Commerce. The Council is the information clearinghouse. Chuck clarified that the development of the strategic plan is an informative process, rather than a regulatory or rulemaking process. It is important to understand that Commerce may make recommendations for code development, but it is not usurping the Council mandate.

The feedback Chuck is seeking is to determine if this is a reasonable process to move forward, and do others need to be invited to be part of the Committee that needs to inform the initial process. Kristyn expressed that since it is not a voting process, it is not necessary to increase the workgroup membership.

There was discussion about using the mailing lists of the Committee, TAGs, and Council for notification, and whether to add additional people to this list, such as the Green Building Council and utility companies. Angie voiced some concerns about the need to keep the public process transparent. The public comment process must be set up in such a way as to hear all feedback.

Kristyn further expressed that the Committee should not be perceived as having any administrative function on the webinars and the workshops. The notification mailings would need to come from Commerce, rather than the Council. Angie agreed that the process needs to be clear about the limited role of the TAG committee in this process.

Chuck clarified that the workgroup is not a TAG or a committee of the Council specifically. Rather, it's a joint workgroup that Commerce and the Council have agreed can inform how the public process is run.

Kim Drury, a member of the audience, asked about the relationship between the TAG and this process. Tim explained that this is an information gathering process for the strategic plan, rather than a code development process.

Mari questioned whether Chuck should be presenting to the Council rather than reporting to the Committee. Kristyn expressed that the Committee is a rulemaking body, and thus should not convene the group.

Tim suggested choosing the date of an upcoming Council meeting, possibly June 11, to have a public hearing on the information Chuck will have gathered through webinars and workgroups. Notification could go out to interest groups and constituents and appear as a notice on the Council agenda. That would be the Council's opportunity to inform the initial development of the plan. Chuck concurred that the activities in the draft are assigned to Commerce, rather than the Council. The workgroup represents an opportunity for the council, who will be heavily impacted by the outcome, to remain informed on issues important to them.

Mari asked whether the Committee needed monthly meetings, if the status of the workplan is to be reported directly to Council. There was discussion about the different duties of the Committee, workgroup, and Council. Kristyn indicated that if there is no decision to be made by the Council, the report could remain at the Committee level. It is important to ensure that the Committee gives fair, equitable notice and opportunity for people to provide input.

Chuck explained that the initial thought was that the MVE Committee could be the workgroup called for by the legislation. The overarching goal is to identify opportunities and roadblocks to the energy code targets established in the bill, which are incremental improvements for 2013 through 2030, eventually achieving a 70 percent reduction. This plan is to be duplicated every three years prior to a code adoption cycle. Tim explained that the plan goes beyond the purview of the Council to address education, and the need for training and programs. The legislation gives the SBCC the specific goal of amending the codes and reporting to the legislature by December 31, 2012, and every three years after. The strategic plan from Commerce also addresses the barriers that may be encountered in getting to the 2030 goal, and will identify research and demonstration needs, utility issues that result from trying to serve low energy buildings, and possible financing mechanisms.

The role of the advisory workgroup is to approve the process and determine if it is running properly. There is not a need to vote, but the goal is to have a consensus opinion about the process.

Tien Peng addressed the scope of work. The legislation calls for 70 percent improvement in energy efficiency, which will require fundamental changes to the way we live. The work will encompass comprehensive planning, density, and other issues the Council has no purview on. Other bodies will weigh in on areas such as growth management and land use.

Kim Drury, a member of the audience, commented that as a member of the public who's going to be trying to engage in this process, she is concerned about duplication of efforts. If the same discussions will be happening both in the workgroup and the TAG, it will take much time and

energy and possibly result in conflicts. Mari responded that that was one reason to send notification to the full Council list.

Patrick Hayes, a member of the audience, commented that the bill says that Commerce has to make a plan and follow the requirements of the bill, and there will not be a TAG created.

Kristyn stated that the Council bylaws do not allow the Council to jointly convene a workshop with Commerce. The bylaws allow for the creation of a TAG, but it appears that no one wants to create a TAG for this work. Tim commented that the legislature directs the Council to convene a workgroup with Commerce to come up with this plan. Some pieces will lead into the code development process.

Motion #1:

Kristyn moved that the Committee assist Commerce with outreach to constituent groups at the staff level, and that it provide a clearinghouse on the Council website. The motion additionally called for Mari to appoint a member to represent the Council at the webinars and workshop meetings. Public testimony about the webinars and workshops would be provided at the Committee meetings. The appointee would also report back to the Council. John Cochran seconded the motion.

There was discussion about whether to take public testimony at MVE Committee meetings, and whether an appointee was needed. The appointee might satisfy the legislation language requiring joint participation.

Angie commented that she thinks it's best to receive public comment early in the process, so that Commerce gets it in time to consider it. Tim commented that the Council and the Committee can both hold a public hearing not related to rulemaking, as long as the Council provides notice and guidelines about how testimony will be taken.

Tien expressed that having Chuck report to the Committee each month serves the requirement of the joint workgroup activity. If public testimony is received at the workshops, he does not believe the Committee needs to further receive any public testimony at other meetings. Kristyn agreed that the process will require much work and time. However, the appointee should be a part of the consensus process and therefore someone needs to be tasked with attending those meetings.

Angie commented that there is a risk that having public testimony at the Committee meetings, as well having an appointee at the webinars and workshops, will greatly increase the workload of a volunteer group of people who all have jobs.

Kristyn voiced that the workshops will not just be educational, but it can be expected that there will be areas of disagreement. If the Council isn't represented, she feels it violates the intent of the legislation. There must be participation in the workgroup to meet the legislative requirements. Chuck indicated that it was not the function of the joint workgroup to provide council input, but Kristyn disagreed.

Tim requested that Kristyn's initial motion be separated into several individual motions. Because the original motion was still on the floor, Mari called for a vote on it.

The motion failed with a unanimous vote.

Motion #2:

Kristyn moved to ask staff to assist Commerce in outreach, through the mailing lists and clearinghouse information on the website. Tien seconded the motion. The motion carried unanimously.

Motion #3:

Kristyn moved to have the MVE Committee serve as the host for the public hearing process. The monthly Committee meetings would include a report from the workshop activities, and time to accept public testimony directed at Council interests and activities. The Committee would then report up the Council.

Chuck asked a procedural question as to whether the Committee could informally provide advice to him during the development of a strategic plan. Tim responded that to meet procedural requirements, it is necessary to use more formal decision making processes.

Kristyn restated the motion. The motion died for lack of a second.

Motion #4:

Kristyn moved that in order to meet the intent of the legislation, the Committee should provide a representative and an alternate to attend the workshops and webinars, as scheduled and run by Commerce. The motion died for lack of a second.

Angie asked whether she could make a motion and second others' motions. Tim responded that she could, but since she was not an official appointee on this Committee she could not vote on motions.

Chuck requested that the Committee look at the outline that he presented, and decide if it is a reasonable first step, and provide direction to him to fill in the details. He explained that he is looking for a statement that the Committee feels his work is on track.

Motion #5:

John moved that the Committee accept the outline provided, and encourage Chuck and Commerce to move forward with the strategic plan as outlined. Tien seconded.

Kristyn stated she didn't feel she could support the motion because the Council involvement is not clear.

John stated that the webinars will be available to everyone and that he will be watching them.

Angie stated that the motion could be considered a first step, and increased involvement could come after the next installment of Chuck's report.

The motion carried with one opposing vote.

Angie stated that the Committee will need to know when and where public testimony occurs and is received. If testimony is received at the Committee meetings, it needs to be very clear how much time would be available on the agenda so that each person gets to speak.

Tien asked if Kristyn's concern would be addressed if, when Chuck reports back at the Committee meetings, members determine at that time what the work is for that particular month's worth of subjects. Kristyn responded that the Committee needs to be part of the consensus making process and take public testimony. Angie stated that if testimony was received, it would need to be a public hearing, so that people are notified of it.

Chuck reiterated that having the Committee approve him to continue to develop work is the first step in fulfilling the legislative mandate. He thinks there is a need for one more meeting to look at a more detailed workplan and approve it. Kristyn voiced that giving Chuck the authority to move forward without public testimony is dangerous.

Mari asked if the next Committee meeting could be publicized as a public hearing to discuss the more detailed workplan. Tim agreed that this testimony could occur at any one of the next three meetings. Chuck offered to provide a detailed draft strategic plan within two weeks so that it can be sent out with enough notice. At the public hearing, each individual will have three minutes for testimony.

Motion #6:

Kristyn moved that Chuck revise the draft as discussed, issue it as a document for discussion at the next meeting, and take public testimony on the draft. The draft plan will identify Council action items and opportunities for input. Tien seconded the motion. The motion carried unanimously.

There was discussion about whether this would then satisfy the intent of the legislature for SBCC involvement. Kristyn didn't feel it met the legislative intent to jointly convene a workgroup, and that instead there should be Council involvement and participation in the workshops, not merely individual members participating. She indicated the need for clarification regarding what is meant by the legislature by "convene."

Chuck suggested he and Tim discuss with others at Commerce familiar with the bill on whether the actions discussed would meet legislative intent. SBCC counsel could advise Council members. After receiving input from these sources, the matter will be further discussed at the next meeting.

Chuck asked members of the audience to send him their input on the draft workplan as well.

2010 CODE CHANGE PROPOSALS

Mari introduced several code change proposals for the Committee to consider. The Building, Fire and Plumbing Codes Committee met and discussed the proposals under their purview, and recommended sending all their proposals to TAGs. Tim explained that most of the twenty code proposals submitted to SBCC by March 1 were germane to the BFP Committee. There were two under the building code, eight under the residential code, four under the plumbing code, and one under the fire code. Additionally, there was one proposal dealing with residential energy codes, and the Committee recommended convening a joint IRC/Energy code TAG to review the proposal, IRC # 9. In reviewing the proposal, the TAG would look at maintaining equivalence to what was adopted by the Council in the 2009 Washington State Energy Code.

The MVE Committee has two items to consider under the mechanical code.

Tim noted that Lee Kranz, who submitted one of the proposals, was unable to attend today, but had left a message saying that his proposal was in line with the 2012 IMC.

Mari asked for a brief discussion of each item and then a determination if it should be referred to the TAG.

Motion #7:

Tien moved to forward IMC1 to the TAG. John seconded. There was no discussion. The motion carried unanimously.

Motion #8:

The second proposal, IMC2, was discussed previously. John moved to send it to send it to the IRC TAG. Kristyn seconded. The motion carried unanimously.

The next proposal is WSEC1, which was also heard at a previous meeting. Kristyn asked about the decision that was made regarding this proposal. Tim said that the Council action was to move the proposal back to the Committee to either recommend approval, denial or to remand it to a TAG. Tien asked what the basis for denial would be. There was discussion about the process for proposals going to rulemaking.

Kristyn stated that the workplan that was approved at the previous meeting would have to be rescinded if WSEC1 was adopted. Krista noted if the proposal was sent to the TAG, the workplan, or future code action, would not necessarily be affected.

Motion #9:

Tien moved to recommend denying WSEC1. The motion died for lack of a second.

Motion #10:

Tien moved to forward the proposal to the TAG for review. Jerry seconded the motion.

Tim noted that this was consistent to the BFP action on the IRC proposal, with the caveat that it must maintain equivalency to the 2009 code. Once the 2009 code goes into effect, the Council does not have the option to adopt something that is less stringent.

The motion carried unanimously.

STAFF REPORT

Tim reported that a new staff member will be joining the Council on May 1. Peggy Bryden, a Secretary Senior, has a background in providing clerical support. She will sit in on the Executive Committee meeting next week.

Council staff is in the process of meeting next week to discuss the move to the Department of General Administration. Tim explained that they expect to be physically moved and part of the GA as of July 1.

OTHER BUSINESS

The next meeting is scheduled for Thursday, May 13 at 9 am.

Kristyn announced that the Executive Committee will meet next week to discuss bylaws, TAGs, and reorganization. It is extremely important for everyone who can to participate. John added that the focus will be the impact of bylaws and the membership of TAGs and committees.

Kristyn encouraged members to visit the Wild Horse wind and solar facilities near Ellensburg. It is the largest solar installation in the state and has a visitor's center.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1135 a.m.